

## REMARKS/ARGUMENTS

Claims 1 and 19 have been amended and new claims 48-57 have been added. Claims 1-4, 11- 26, 28, 29, 33, 34, 38, 39, and 42-57 are pending in the present application, of which claims 1, 4, 11-13, 16-19, 22-26 and 42-47 are the independent claims. Applicant believes that the present application is in condition for allowance, for which prompt and favorable action is respectfully requested.

Support for the claim amendments can be found throughout the originally-filed specification, including for example, paragraph [1034]. No new matter is believed to have been added.

### *Allowable Subject Matter*

Applicant greatly appreciates the indication that claims 11, 12, 16, 18, 22, 24, 46 and 47 are allowed.

### *Claim Rejections – 35 USC § 102*

Claims 1-4, 13-15, 17, 19-21, 23, 25, 26, 28, 29, 33, 34, 38, 39 and 42-45 are rejected under 35 U.S.C. § 102(b) as being anticipated by Tiedemann (U.S. 6,396,867). Reconsideration and withdrawal of this rejection are respectfully requested.

MPEP § 2131 states that “[a] claim is anticipated only if **each and every element** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” (emphasis added). MPEP § 2131 also states that “[t]he identical invention must be shown in **as complete detail** as is contained in the ... claim” and “[t]he elements must be **arranged as required by the claim.**” (emphasis added). MPEP § 2112 (IV) states that in order to “establish inherency, the extrinsic evidence must make clear that the missing descriptive matter is **necessarily present** in the thing described in the reference, and that it would be so recognized by persons of ordinary skill.” MPEP § 2112 (IV) also states that inherency “may **not be established by probabilities or possibilities.**” In the present case, Applicant submits that Tiedemann does not meet this high burden for establishing anticipation under 35 U.S.C. § 102.

Independent Claims 4, 13, 17, 23, 26 and 43

Each of independent claims 4, 13, 17, 23, 26 and 43 recites the features of receiving or transmitting a forward link power control instruction on a forward link common channel, wherein the forward link common channel is shared by a plurality of remote stations. Tiedemann does not disclose at least the features of receiving or transmitting a forward link power control instruction on a forward link common channel, wherein the forward link common channel is shared by a plurality of remote stations, and therefore does not anticipate independent claims 4, 13, 17, 23, 26 and 43.

In rejecting claims 4, 13, 17, 23, 26 and 43, the Office Action fails to address the features “wherein the forward link common channel is shared by a plurality of remote stations” recited in these claims. For instance, in rejecting claims 13, 17 and 23, the Office Action states:

Regarding claims 1, 13, 17, 19, 23, 25 Tiedemann teaches a remote station apparatus (element 6) comprising: a link quality estimation unit operative to generate a link quality estimate in response to a forward link power control instructions received on a forward link common channel 10; (Col. 7 line 19-26; quality of the change is inferred from the measured amplitude of the reverse link power control bits)

*See page 3 of the Office Action.*

As can clearly be seen above, the rejection of claim 13, 17 and 23 fails entirely to address the features “wherein the forward link common channel is shared by a plurality of remote stations” recited in claims 13, 17 and 23. In rejecting claims 4 and 26, the Office Action states:

A transmitter operative to transmit the forward link power control instruction on a forward link common channel. (Col. 4 line 58-65; reverse line power control bits used to adjust the transmission power of the base stations) and (Abstract and (Col. 7 line 31-57)

*See page 5 of the Office Action.*

As can clearly be seen above, the rejection of claims 4 and 26 fails entirely to address the features “wherein the forward link common channel is shared by a plurality of remote stations” recited in claims 4 and 26.

According to MPEP § 2143.03, “all words in a claim must be must be considered in judging the patentability of that claim against the prior art.” (emphasis added). Because the Office Action fails to address the features “wherein the forward link common channel is shared by a plurality of remote stations” recited in claims 4, 13, 17, 23, 26 and 43, as required by MPEP § 2143.03, Applicant respectfully submits that the rejection of claims 4, 13, 17, 23, 26 and 43 should be withdrawn for at least this reason.

In response to Applicant’s previous response dated September 9, 2011, the Office Action states:

The claimed subject matter however discloses “... a forward link power control instruction received on a forward link common channel, wherein the apparatus shares the forward link common channel link with at least ONE remote station;”

*See* page 2 of the Office Action.

Applicant respectfully disagrees with respect to claims 4, 13, 17, 23, 26 and 43. Each of claims 4, 13, 17, 23, 26 and 43 clearly recites the features “wherein the forward link common channel is shared by a plurality of remote stations.” Therefore, the Office Action’s response fails to address the above features.

For at least the reasons given above, Applicant submits that Tiedemann does not anticipate claims 4, 13, 17, 23, 26 and 43, and therefore respectfully requests that the rejection of claims 4, 13, 17, 23, 26 and 43 be withdrawn.

#### Independent Claims 25, 42, 44 and 45

Each of independent claims 25, 42, 44 and 45 recites the features of receiving a forward link power control instruction on a forward link common channel, wherein the remote station shares the forward link common channel with at least one other remote station. Thus, each of claims 25, 42, 44 and 45 recites a forward link common channel that is shared by at least two remote stations (the remote station and the at least one other remote station). Tiedemann does not disclose at least the features of receiving a forward link power control instruction on a forward link common channel, wherein the remote

station shares the forward link common channel with at least one other remote station, and therefore does not anticipate independent claims 25, 42, 44 and 45.

In rejecting claims 25, 42, 44 and 45, the Office Action fails to address the features “wherein the remote station shares the forward link common channel with at least one other remote station” recited in these claims. For instance, in rejecting claim 25, the Office Action states:

Regarding claims 1, 13, 17, 19, 23, 25 Tiedemann teaches a remote station apparatus (element 6) comprising: a link quality estimation unit operative to generate a link quality estimate in response to a forward link power control instructions received on a forward link common channel 10; (Col. 7 line 19-26; quality of the change is inferred from the measured amplitude of the reverse link power control bits)

*See page 3 of the Office Action.*

As can clearly be seen above, the rejection of claim 25 fails entirely to address the features “wherein the remote station shares the forward link common channel with at least one other remote station” recited in claim 25. Similarly, the rejections of claims 42, 44 and 45 also fail entirely to address the above features.

According to MPEP § 2143.03, “all words in a claim must be must be considered in judging the patentability of that claim against the prior art.” (emphasis added). Because the Office Action fails to address the features “wherein the remote station shares the forward link common channel with at least one other remote station” recited in claims 25, 42, 44 and 45, as required by MPEP § 2143.03, Applicant respectfully submits that the rejection of claims 25, 42, 44 and 45 should be withdrawn for at least this reason.

In response to Applicant’s previous response dated September 9, 2011, the Office Action states:

The claimed subject matter however discloses “... a forward link power control instruction received on a forward link common channel, wherein the apparatus shares the forward link common channel link with at least ONE remote station;”

*See page 2 of the Office Action.*

Applicant respectfully disagrees with respect to claims 25, 42, 44 and 45. Each of claims 25, 42, 44 and 45 clearly recites the features “wherein the remote station shares the forward link common channel with at least one other remote station.” Therefore, the Office Action’s response fails to address the above features.

For at least the reasons given above, Applicant submits that Tiedemann does not anticipate claims 25, 42, 44 and 45, and therefore respectfully request that the rejection of claims 25, 42, 44 and 45 be withdrawn.

#### Independent Claims 1 and 19

Each of independent claims 1 and 19, as amended, recites the features of receiving a forward link power control instruction on a forward link common channel, wherein the forward link common channel is shared by a plurality of remote stations. Applicant submits that Tiedemann does not disclose at least the above features recited in claims 1 and 19 for similar reasons given above for claims 4, 13, 17, 23, 26 and 43.

#### Remaining Rejected Claims

The other rejected claims currently under consideration in the application are dependent from their respective independent claims discussed above and therefore are believed to be allowable over the applied references for at least similar reasons. Because each dependent claim is deemed to define an additional aspect of the invention, the individual consideration of each on its own merits is respectfully requested.

#### *New Claims*

New claims 48-57 depend from claims 1, 4, 13, 17, 19, 23, 25, 26, 42 and 43, respectively, and are therefore allowable for at least the reasons given above. Because each dependent claim is deemed to define an additional aspect of the invention, the individual consideration of each of new claims 48-57 on its own merits is respectfully requested.

### CONCLUSION

In light of the amendments contained herein, Applicants submit that the application is in condition for allowance, for which early action is requested.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

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